

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

July 1, 2015

Members Present:

Tim Holmes	President
Phil Barrow	Vice-President
Brian Alsip	Member
Rev. Richard Martin	Member

Members Absent:

Jim Martin	Secretary
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Others Present:

Alex Getchell	Associate Planner
Joanna Myers	Senior Planner
Heath Johnson	Legal Counsel

Call to Order:

Tim Holmes called the meeting to order at 7:00 p.m.

Approval of Minutes:

Phil Barrow made a motion to approve the May 6, 2015 minutes as submitted. Brian Alsip seconded the motion. The members voted to approve the minutes.

Swearing In:

Heath Johnson swore in the audience en masse.

Old Business:

None.

New Business:

ZB 2015-09 (V) – 975 E. 125 S. – Connie Leonard:

The petition is for a developmental standards variance to allow a property to be less than the minimum lot area of two acres, request is for only 1.6 acres, in the A: Agricultural zoning district. The property is located within the City's Extraterritorial Area, "buffer zone," at 975 E. 125 S., Franklin, IN. A variance is needed as Article 3, Chapter 4 of the Zoning Ordinance states that the minimum lot size is two acres. The application is complete and the public notification requirements have been met.

Tim Leonard, son of Connie Leonard, stated his mom and aunt wish to sell the property, due to the maintenance of the property becoming too much. He stated they would like to keep the farm intact without splitting a portion off. He stated access to the field from the north is not conducive due to the

ditch and rain. He stated they have tried to use that access before but have not been able to utilize, with tractors getting stuck and have had to call in a wrecker to pull them out. He stated they do not have access from the south as the farm to the south has been sold. He stated the properties to the north are 1 acre each, and approval will not affect them adversely and keeps them blending in. He stated they would like to maintain the southern portion of grass area to be able to maintain access to the field that they will still own.

Mr. Leonard stated the value of other properties will not be adversely affected.

Mr. Leonard stated the general welfare will not be affected as nothing about the property will be changed.

Mr. Leonard stated there is not going to be any economic gain. He said they want to minimize the loss of crop field acreage and still maintain access to the field. He stated the practical difficulty is their inability to split 2 acres off because of drainage along the north side of the field and not being able to maintain access. He stated average rain makes it way too wet to access the field from the north and that the field to the south was sold and access is no longer provided through there. He stated they must maintain existing access south of house to still access the field.

Phil Barrow requested the petitioner to identify the location of the access to the field. Petitioner outlines where the access is currently located and how accessing from the north has been a problem.

Brian Alsip references the staff report on another option of meeting the 2 acres. Petitioner states that that proposal takes some of the field and they do not want to split any of the field off.

Mr. Getchell states that the discussion has been in regard to Figure 3 in the staff report. Mr. Getchell stated Figure 1 and Figure 2 were provided by the petitioner and that Figure 3 was provided by staff as a recommendation of potential options to meet the minimum requirements. He stated that Figure 3 outlines 2 options, one outlined in red and one outlined in yellow.

Mr. Alsip asks if there is an estimate of the acreage if the petitioners were to go with the red line option that hugs the field line, then comes east along the southern yellow line option shown on Figure 3. Mr. Getchell estimates that hypothetical property would be approximately 1.75 to 1.8 acres. He further states that there are minimum setbacks to be maintained. Brian asks if the petitioner's proposal meets the minimum setbacks. Mr. Getchell states that the exhibits provided by the petitioner states that the setbacks would be met. He outlines that a survey would need to be completed to verify.

Tim Holmes asked if the reason for the 2 acres is for a potential 2nd septic. Mr. Getchell stated that he believes soil samples have not been completed to verify if the area they are setting aside for a second septic would be acceptable for a septic field.

Mr. Getchell stated that after hearing testimony this evening, staff recommends denial as a practical difficulty has not been established and the request is based on a self-imposed condition.

Mr. Alsip asked if giving up very usable farmland is a practical difficulty. Mr. Getchell states that he does not believe that it is a practical difficulty as the proposed lot is almost 2 acres and that the tillable acreage is over 19 acres. The small addition of farmland required is not a practical difficulty in his mind.

Mr. Alsip inquired about how the options in Figure 3 were delineated. Mr. Getchell stated the yellow option he provided was drawn the way it was, knowing they wanted to keep the barn and access to the field, so he extended the option as far south as he could, to limit how much farm land was included. He also noted that in addition, a 35 ft. dedicated right-of-way would be required per Johnson County Subdivision regulations which may result in the boundary of the property shifting to meet the outlined request.

Mr. Leonard asks what it would take to keep the southern part and keep the access to the acreage. Judy Kasting stated that they have to keep the barn and the access to the house. She stated that if they ever sold that farm, they would have to include the barn and that access.

Mr. Johnson asked if Ms. Kasting had seen the proposals from staff, which meets the 2 acres requirement and takes a small portion of the field. Ms. Kasting stated a potential buyer would not like that.

Mr. Alsip asked the petitioners why they have such an oddly shaped lot proposal. Mr. Leonard stated there is a small parcel between their property and the road from the old railroad that used to run through the property. Mr. Alsip again questioned why they did not include more of the grass area into their proposal. Ms. Kasting stated they let their surveyor do the drawing.

Mr. Getchell stated they will combine two properties, then split off the house and acreage from the crop field.

Mr. Holmes asked the petitioner why they want to keep the area of the property that is just grass. Ms. Kasting they just wanted to separate the house off and they just had the surveyor do it. She stated their main thing was to keep the barn and access on the south. Ms. Leonard stated they were not opposed to letting the grass area go.

Mr. Holmes asked if they would be interested in a continuance to go back to their surveyor to try to get the two acre lot. Mr. Getchell stated the whole reason he gave them the two, 2-acre options, was to show them other ways they could divide the land without the need for variance. Mr. Johnson stated the only reason they are before this Board, was because they were in the buffer zone and did not provide the two acres. Mr. Holmes asked if the case could be continued, in order to give the petitioners another chance to go back to their surveyor to try and get the 2 acres.

Mrs. Myers stated that if a motion were made to approve the case, and that motion lacks a majority, then that motion fails. Then, if a motion were made to deny the case, and that motion lacks a majority, then that motion failed. If both motions fail, then the case would be automatically continued to the next scheduled meeting. If a motion is made to deny the petition and that motion passes, the request cannot be resubmitted for a period of at least 12 months, unless the request is substantially different.

Action taken on ZB 2015-09 (V) – Connie Leonard:

Mr. Alsip made a motion to approve the petition as submitted. Mr. Holmes asked if staff had any recommendations for conditions of approval. Mr. Getchell stated staff's recommendation for conditions of approval, should the Board find evidence to approve the request, were the following: 1.) Prior to recording, a copy of the final legal description and survey of the divided lot shall be submitted to the City of Franklin Department of Planning and Engineering staff for review of development standards and conformity with this approval, and 2.) Approval be for a lot not less than 1.6 acres, which does not include the right-of-way as required by Johnson County Planning and Zoning.

Mr. Alsip amended his motion, to include staff's recommendation for conditions of approval. Tim Holmes seconded the motion. The motion failed with a split vote of 2-2, with Phil Barrow and Rev. Martin voting against the motion.

Mr. Alsip made a motion to deny the petition for the reason that they failed to provide a practical difficulty. Phil Barrow seconded the motion. The motion failed with a split vote of 2-2, with Tim Holmes and Brian Alsip voting against the motion.

The case was automatically continued to the August 5, 2015.

Other:

None

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 5th day of August, 2015.

Tim Holmes, Chairman

Jim Martin, Secretary